

Chapter 9 - Support

Introduction

Support cases in the juvenile and domestic relations district court can be divided into three major categories, civil support, interstate support cases, and criminal non-support. Cases of civil support include the support aspect of divorce cases which have been transferred entirely or for enforcement purposes to the juvenile and domestic relations district court, non-criminal custody, visitation and/or child or (after separation), spousal support cases which originate in the juvenile and domestic relations district court and child support and child and spousal support matters from the [Division of Child Support Enforcement](#) that are appealed to the juvenile and domestic relations court. Interstate support cases encompass those cases where there is a support order that has been entered in another state and one party is requesting either enforcement or modification in a Virginia court. These cases are handled under the Uniform Interstate Family Support Act. Cases of criminal non-support include persons charged with deserting, abandoning, or failing to provide support for any dependent, including parents in impoverished circumstances in violation of the law.

All child support and spousal support case files, whether physical or digital, shall be open for inspection only to the following:

- The judge, court officials, and clerk or deputy clerk assigned to serve the court in which the case is pending or to which the case is transferred pursuant to court order;
- Any party to the case;
- Any attorney of record to the case; and
- The Department of Social Services and the Division of Child Support Enforcement.
- Any other person, agency, or institution having a legitimate interest in such case files or the work of the court, by order of the court, may inspect the files.

Support Proceedings

Case Initiation of In-State Support Cases

A support proceeding may be instituted on a petition, on a warrant, or upon the court's own motion, [Va. Code § 16.1-259](#), or by the filing of a certified copy of an administrative support order by the Division of Child Support Enforcement Programs for enforcement purposes. Appeals from the [Division of Child Support Enforcement](#) administrative support or enforcement orders are initiated by the filing of a written notice of appeal in the clerk's office. [Va. Code § 63.2-1943](#). The DC-601, NOTICE –ADMINISTRATIVE SUPPORT DECISION APPEAL may be utilized. No sheriff's fee should be charged for service of process in cases involving child support. Petitions for spousal support that contain no request for child support do require a service fee of \$12.00 per service issued.

An individual is not required to obtain support services from the [Department of Social Services](#) prior to filing a petition seeking support for a child, nor is anyone required to obtain support services from the [Department of Social Services](#) prior to commencing a judicial proceeding to establish, modify, enforce or collect a child support obligation.

Cases seeking support from Virginia residents are initiated in the juvenile and domestic relations district court by a petitioner filing a district court form DC-610, PETITION FOR SUPPORT (CIVIL), or a plaintiff filing a district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) (see Section regarding Criminal Non-Support for instructions) with an intake officer.

Servicemembers Civil Relief Act Requirements for Default Judgment:

A default judgment may not be entered until the plaintiff files an affidavit (i) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or (ii) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service. The district court form DC-418, AFFIDAVIT – DEFAULT JUDGMENT SERVICEMEMBERS CIVIL RELIEF ACT is available for use by plaintiffs. Failure to file the affidavit is not grounds to set aside an otherwise valid default judgment against a defendant who was not, at the time of service of process or entry of the default judgment, a service member. However, case law indicates that failure to comply with the affidavit requirement in a case involving a defendant who is a service member and whose military service interfered with his ability to respond to a suit creates a voidable default judgment. See *Flynn v. Great Atlantic Management Co.*, 246 Va. 93; *Matthews v. Allstate Ins. Co.*, 194 F. Supp. 459 (E.D. Va. 1961). If the defendant is believed to be in military service and is unaware of the action, the court must appoint an attorney to represent the defendant prior to entry of a default judgment. The court must grant a stay of not less than ninety days upon request by appointed counsel or upon its own motion if the court believes that (i) there may be a defense that requires the defendant's presence or (ii) counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists after due diligence. If the service member cannot be contacted within the first ninety-day stay period, a default judgment may be entered, but the service member may attack the judgment and the attorney's actions shall not bind him.

If the service member is believed to be in military service and has been provided notice of the action, the court may grant a stay of ninety days or more upon its own motion, and shall grant a stay upon application of a service member with notice, if such service member provides (i) a letter setting forth the reasons why his military duties materially affect his ability to appear, and a date on or after which he could appear and (ii) a letter from his commanding officer stating that his service precludes his ability to appear and that he is not authorized to take leave. Active duty status alone, even in another state, does not necessarily "materially affect" one's ability to appear. Application for this stay

does not constitute a waiver of jurisdictional defenses. A service member may apply for additional stays, but the court need not grant them. If the court refuses to grant an additional stay after the first ninety-day stay and the service member still cannot appear by reason of his military service, then the court must appoint an attorney to represent him before entering default judgment.

If appointment of counsel is required, the court may assess attorneys' fees and costs against any party, as the court deems appropriate, and shall direct in its order which of the parties shall pay. Such fees and costs shall not be assessed against the Commonwealth unless it is the party that obtains the judgment.

The Servicemembers Civil Relief Act covers National Guard members who are in Title 10 status. Title 10 status means they are paid and under the direct control of the federal government. Members who are in a Title 32 status, paid and trained by the United States Armed Forces but under control of the respective state governors, are covered by the Servicemembers Civil Relief Act if they are in that status pursuant to a contingency mission specified by the President or Secretary of Defense. Members who are paid by and under the command of their states' governors are not covered under this Act. A service member who did not have notice of an action that resulted in a default judgment may petition the court to reopen a case within ninety days of his release from service. The court shall rehear the matter and allow the service member to defend the action only if (i) the service member was materially affected in making a timely defense by reason of military service and (ii) the service member has a meritorious or legal defense to the action or some part thereof.

If the parents are married to each other but parentage is in dispute or if the parents are not married to each other, a district court form DC-641, PARENTAGE SUPPLEMENT TO PETITION should be prepared and attached to each copy of the petition.

The [Division of Child Support Enforcement](#) or an attorney may file a support petition in the clerk's office rather than with the intake officer. [Va. Code § 16.1-260](#). The clerk's office proceeds to handle the case in the same manner as petitions forwarded to the clerk's office by the intake officer.

When a support order is referred from any circuit court in the state, the juvenile and domestic relations district court has only such authority as is contained in the order of referral. Either party may file a district court form DC-630, [MOTION TO AMEND OR REVIEW ORDER](#) to request review or change of the support order. The clerk's office issues notice on the motion or district court form DC-510, SUMMONS for service by the sheriff on the defendant.

Appeals from a hearing officer's decision regarding an administrative support order, an order to withhold funds for child support, an income deduction order, or an order to

establish a debt owed for Aid to Families with Dependent Children (AFDC) payments may be taken by written appeal filed in the clerk's office of the juvenile and domestic relations district court within ten days from the obligor's receipt of the decision. Since it is an appeal *de novo*, the civil support case processing provision should be followed. The clerk gives notice of the date, time and place of the hearing to the parties (to DCSE if it is representing a party).

- Enter the notice of appeal in the Support Division.
- Case type **VS**

A certified copy of an administrative order for support entered by the Division of Child Support Enforcement may be filed in the clerk's office for enforcement through the court. A separate document certifying the order will be attached to the order when it is filed in the clerk's office.

- Enter the Administrative Support Order in the Support Division.

Case type **NC**

Final disposition code **OT**.

Expunge date is required. (Expunge date should be calculated as the date the youngest dependent turns 29 years of age.)

Process is served in the same manner as used in delinquency cases (whether original jurisdiction or by referral from circuit court). However, in cases filed to enforce child support, if sufficient showing is made that a diligent effort was made to ascertain the location of a party, that party may be served with any required notice by delivery of a copy of the notice to the person's residential or business address, as filed with the court. [Va. Code § 63.2-1917](#).

The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion together with notice of the court date to the [Division of Child Support Enforcement](#). Intake officers must accept and file all support petitions ([Va. Code § 16.1-260](#)); they cannot exercise any discretion in reviewing such petitions.

Note: While circuit courts and juvenile and domestic relations district courts have concurrent jurisdiction over spousal support and child support (including children to whom a duty of support is owed under [Va. Code § 20-61](#)), the filing of a divorce suit in which support of the child or spouse is raised by the pleadings and the setting of a hearing

by the circuit court on any such issue for a date certain to be heard within twenty-one days of the filing of the divorce suit divests the juvenile and domestic relations district court of jurisdiction except to enforce existing orders unless both spouses agree to referral of the matter to the juvenile and domestic relations district court or until the case is transferred pursuant to [Va. Code § 20-79 \(c\)](#). [Va. Code § 16.1-244](#).

Pre-Trial Procedures of In-State Support Cases

In General

Following initiation of a support or a desertion/non-support case through the filing and ultimate service of a petition and summons, the clerk's office performs several pre-trial procedures to properly prepare the case for court. The clerk's office will complete the indexing and filing functions by:

- Assigning a case number and entering the case into the automated system.
- Attaching executed process to the case papers.

The clerk's office will prepare the docket of pending or support cases prior to the court date by:

- Retrieving cases from the pending court files for cases to appear on the docket.
- Printing a docket via JCMS or addendum docket as per the instructions in the JCMS User's Guide.

The court may require that certain investigations be done and reports made to the court for use in disposing of the matter.

Voluntary Income Assignments

Prior to trial, the defendant may wish to enter into a contract providing for a specified level of support and authorizing an assignment of his income to meet the support obligation. Alternatively, the defendant may execute a district court form DC-615, [RESPONDENT'S REQUEST FOR INCOME DEDUCTION ORDER](#) authorizing such an assignment. Such contracts and assignments are subject to acceptance by the judge. See Trial Procedures, below.

Preliminary Support Order

A *pendente lite* order for support may be entered prior to the final adjudication, provided that such proceeding is not ex parte. [Va. Code § 16.1-278.17](#).

Juvenile Putative Fathers

If the putative father in a support action is between ages fourteen and eighteen, a guardian *ad litem* shall be appointed to represent him. [Va. Code § 20-49.6](#). These cases are entered in the juvenile civil division of the case management system using the case type **JS**. However, once the juvenile reaches age eighteen, it is recommended that the court enter an order transferring the case to the adult division using the case type **NC**.

Transfer of Venue

Venue in civil support cases may be transferred on the court's own motion or on motion of a party for good cause shown or by agreement of the parties to wherever the respondent "resides" as defined by [Va. Code § 16.1-243 \(B\)](#). If, however, there is a companion custody or visitation case, the venue provisions regarding custody and visitation shall govern. Venue in criminal desertion/non-support cases may be transferred pursuant to [Va. Code § 20-83.1](#) to the locality where the spouse, child or the accused resides.

Trial Procedures in In-State Support Cases

The types of cases to be heard include:

- Petitions for support
- Petitions of desertion and non-support

In court, the judge hears the evidence in the case, the respective parties present their pleadings, and the judge renders a judgment based on evidence relevant to the individual case. Upon motion of any party, the court may allow one expert witness for each party to remain in the courtroom throughout the hearing. [Va. Code § 8.01-375](#).

Note: In civil support cases, the court can order support only for children under age eighteen unless the order requires that support be paid to a child who is a full-time high school student, is not self-supporting, and is living in the home of the parent receiving child support, until the child either reaches age nineteen or graduates from high school, whichever occurs first. The court may also order that support be paid or continue to be paid for any child over the age of eighteen who is severely and permanently disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); unable to live independently and residing in the home of the parent seeking support. [Va. Code § 16.1-278.15](#). However, the court may confirm a stipulation or agreement of the parties that extends a support obligation beyond when it would otherwise terminate. [Va. Code § 20-107.2](#). In

criminal desertion/non-support cases, the court can order support for children eighteen years of age or over who are disabled or otherwise substantially incapacitated from earning a living and for children under age eighteen and for parents entitled to support. [Va. Code §§ 20-61, 20-88](#). The parties to a contested support proceeding must attend an education seminar or other similar program on the effects of separation and divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities.

Note: The filing in circuit court of a divorce suit in which custody, visitation or child or spousal support is raised by the pleadings and a hearing is set by the circuit court on any such issue for a date certain to be heard within twenty-one (21) days of the filing of the divorce case divests the district judge of the right to enter further orders in the matter but does not divest the district judge of the power to enforce pre-existing orders, prior to the entry of a conflicting circuit court order for any period during which the order was in effect.

Parties to uncontested cases may be required to attend an educational seminar if the court finds good cause. If desired, the court may use the district court form DC-605, ORDER OF REFERRAL TO PARENT EDUCATION SEMINAR to ensure attendance by the parties.

The judge completes the district court form DC-628, ORDER OF SUPPORT (CIVIL), or the district court form DC-629, ORDER OF SUPPORT (CRIMINAL) as he/she tries the case. The district court form DC-628, ORDER OF SUPPORT (CIVIL) may be used in spousal support cases. If the putative father fails to appear after being personally served with certain statutory notice alleging that he is the father of the minor child, the court shall proceed to hear evidence as if he were present, but a copy of the order must be served upon him. [Va. Code § 20-61.3](#).

If the alleged father voluntarily testifies under oath or affirmation that he is the father of a child whose parents are not married, or not married to each other, the judge may require that he complete an acknowledgment of paternity on a form provided by the Division of Child Support Enforcement. [Va. Code § 20-49.5](#). Within thirty days after completion of the form, it is sent to the [Division of Child Support Enforcement](#). This provision applies to all cases involving parentage, including cases in which the Division of Child Support Enforcement has no involvement. The completion of this form is an evidentiary process that does not eliminate the necessity for a district court form DC-644, ORDER DETERMINING PARENTAGE.

Calculation of the amount of an award of support pursuant to the guidelines for determining support awards contained in [Va. Code § 20-108.2](#) creates a rebuttable presumption as to the correctness of the amount. The guidelines statute defines many of the terms used in this calculation. [Va. Code § 20-108.2](#). The district court form DC-637, [CHILD SUPPORT GUIDELINES WORKSHEET](#) is used for this purpose.

The only factors that can be used to rebut the presumption are found in [Va. Code § 20-108.1 \(B\)](#), and only if the application of the guidelines would be unjust or inappropriate, as determined by using these statutory provisions for rebutting the presumption. In addition, this statute further directs that the provisions for deviations shall not be used as a basis for a material change in circumstances upon which a modification may be based. [Va. Code § 20.108.1 \(F\)](#). The district court form DC-639, CHILD SUPPORT GUIDELINES EXCEPTION SUPPLEMENT TO ORDER for Support should be utilized and attached to the support order, if necessary.

The child support court order, indicating the amount of support and attorney's fees, if any, and containing the information required by [Va. Code §§ 20-60.3](#) and [20-60.5](#), is issued by the court. The parties receive a copy of the support order and the court shall also provide a copy of the guidelines worksheet.

All orders directing the payment of spousal support where there are minor children whom the parties have a mutual duty to support and all orders directing the payment of child support order, whether they are original orders or modifications of existing orders are required to contain:

- If known, the name, date of birth and last four of the social security number of each parent of the child and, if different and if known, the name, date of birth and last four of the social security number of each person responsible for support and, unless otherwise ordered, each parent or responsible person's residential address, residential and employer telephone number, driver's license number and name and address of his or her employer. If the mailing address is different from the residential address, it should also be included.

When a protective order has been issued, or the court otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, information other than the

name of the party at risk shall not be included in the order. [Va. Code § 20-60.3 \(4\)](#).

- Names and dates of birth of each child for whom a duty of support is owed by the person responsible for support. [Va. Code § 20-60.3 \(3\)](#).
- The monthly amount of support and the effective date of the order. In proceedings on initial petitions, the effective date shall be the date of the petition; in modification proceedings, the effective date may be the date of notice to the responding party. The first monthly payment shall be due on the first day of the month following the hearing date and on the first day of each month thereafter. In addition, an amount shall be assessed for any full and partial months between the effective date of the order and the date that the first monthly payment is due. The assessment for the initial partial month shall be prorated from the effective date through the end of that month, based on the current monthly obligation. [Va. Code § 20-60.3 \(6\)](#).
- An order for health care coverage, including health insurance policy information, for dependent children provided such coverage is available and can be obtained by the payer at a reasonable cost and a statement as to whether there is an order for health care coverage for a spouse or former spouse. [Va. Code § 20-60.3 \(7a\)](#).
- A statement as to whether any un-reimbursed medical expenses are to be paid by or reimbursed to a party pursuant to subsections D and G of [Va. Code § 20-108.2](#), and if such expenses are ordered, then the provisions governing how such payment is to be made. [Va. Code § 20-60.3 \(7\)\(b\)](#).
- If a support arrearage exists,
 - to whom an arrearage is owed and how much
 - the period of time for which such arrearage is calculated
 - a direction that all payments are to be credited to current support obligations first, with any excess applied to the arrearage. [Va. Code § 20-60.3 \(8\)](#).
- All new initial child support orders must include a provision for immediate income withholding unless the obligor/respondent and obligee/petitioner, or the [Department of Social Services](#) if applicable, agree in writing to another arrangement. [Va. Code § 20-79.2](#). If withholding is not ordered, the court must state the

cause shown for such action. A district court form DC-645, INCOME DEDUCTION ORDER FOR SUPPORT must require payment to the Division of Child Support Enforcement. See Income Deduction discussion below.

- If child support payments are ordered to be paid through the [Department of Social Services](#), or directly to the obligee and unless the court for good cause shown orders otherwise, the parties shall give each other, and the court and, when payments are to be made through the Department, the [Department of Social Services](#) at least thirty days' written notice, in advance, of any change of address and any change in telephone number within thirty days after the change. In addition, the order must include a provision that the obligor/respondent must keep the [Department of Social Services](#) or the court, whichever is applicable, informed of the name, address and telephone number of his or her current employer. [Va. Code § 20-60.3 \(9\)\(10\)](#).
- The separate amounts due to each person unless the court orders a unitary award of child and spousal support or the order affirms a separation agreement containing this provision. [Va. Code § 20-60.3 \(11\)](#).
- Notice that the support obligation as it becomes due and unpaid creates a judgment by operation of law. [Va. Code § 20-60.3 \(12\)](#).
- Notice that support payments may be withheld as they become due from the obligor/respondent's income without further amendment of this order or having to file an application for services with the [Department of Social Services](#). [Va. Code § 20-60.3 \(1\)](#).
- Notice that support payments may be withheld from the obligor/respondent's income without further amendment to the order upon the application of services with the [Virginia Department of Social Services](#). [Va. Code § 20-60.3 \(2\)](#)
- Notice that if the obligor becomes delinquent in his support obligations for ninety (90) days or more or the delinquency is for \$5,000 or more, a petition may be filed to suspend any license, certificate, registration or other authorization to engage in a profession, trade, business or occupation issued by the Commonwealth. The order shall also note if either parent holds such a license and the type held. [Va. Code § 20-60.3 \(5\)](#).
- An amount for interest on any arrearage at the judgment rate of interest, unless the obligee waives the collection of interest, in

- writing, or, in DCSE cases, where the obligor is a minor. [Va. Code § 20-78.2](#).
- Notice that the [Department of Social Services](#) may initiate a review of any court support order. [Va. Code §§ 20-108.2, 63.2-1917](#)
 - A statement that if any arrearages for child support, including interest or fees, exist at the time the youngest child included in the order emancipates, payments shall continue in the total amount due (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages are paid. [Va. Code § 20.60.3 \(14\)](#).

The order of support may constitute a lien on real estate pursuant to [Va. Code §§ 8.01-460](#) and [16.1-278.15](#) if it so states and is recorded in the appropriate circuit court.

Support payments received by the [Department of Social Services](#) shall be prorated based upon the current amounts due pursuant to more than one judicial or administrative order. Any remaining amounts shall be prorated for accrued arrearages in the same proration as the current support payments. [Va. Code § 63.2-1954](#).

If parentage was in dispute, the order may include an equitable apportionment of the expenses incurred on behalf of the child from the date that notice of the case involving parentage was given to the alleged parent, which may be in favor of the parent or agency that incurred the expense.

In desertion/non-support cases and in support cases, the judge may award attorney's costs on behalf of any party and require the respondent, if he or she is found to owe a duty of support, to enter into a recognizance. [Va. Code §§ 16.1-278.16](#) and [20-114](#). In cases in which spousal support is ordered, the court may also enter an appropriate order to protect the welfare of the spouse seeking support. In cases in which the [Division of Child Support Enforcement](#) participates in enforcing support, the court may award to the Division its actual blood testing costs, intercept costs, attorney's fees, (as limited by [Va. Code § 19.2-163 \(1\)](#)), and other costs (as specified in [Va. Code § 63.2-1960](#)), if the Division prevails.

If the parties have agreed to a contract or stipulation regarding spousal support, the order must conform to such contract. If the contract or stipulation is entered into after the order is entered, the order shall be modified to conform to the contract or stipulation.

Spousal support shall terminate on the finding of the court that the spouse receiving support has been habitually cohabiting with another person in a relationship analogous to a marriage, for one year or more, unless (i) otherwise provided by a contract or stipulation, or (ii) such termination would be unconscionable. [Va. Code § 20-109](#). Unless otherwise provided by contract or stipulation, spousal support shall cease upon remarriage. A spouse entitled to support has an affirmative duty to notify the payor spouse of remarriage. Failure of the remarried spouse to notify shall entitle the payor to restitution as specified in [Va. Code § 20-110](#).

The clerk's office, depending on the type of case, will prepare:

- *either* a district court form DC-628, ORDER OF SUPPORT (CIVIL) or a district court form DC-629, ORDER OF SUPPORT (CRIMINAL) and an income deduction order unless the court has specifically ordered otherwise.
- if parentage was determined, a district court form DC-644, ORDER DETERMINING PARENTAGE with a copy being sent to the [Virginia Department of Health - Division of Vital Records](#).
- if a custody or visitation determination is made, a district court form DC-573, Order for Custody/Visitation Order Granted to Individual(s).

If the case is handled by the [Division of Child Support Enforcement](#) or payment to or through the Division is ordered, send a copy of each of the above orders entered to the local Division of Child Support Enforcement Office.

At the request of either parent subject to an administrative support order, the Division shall initiate a review of the order every three years, without requiring proof of a change in circumstances. [Va. Code § 63.2-1903 \(E\)](#).

Income Deduction Orders

All initial child support orders entered after July 1, 1995, shall include an income deduction for support payments, unless the court orders otherwise. An income deduction order may be entered for earlier support orders that are modified. Income deduction orders for support must mirror the provisions of the underlying order of support as to payment provisions and, if ordered, provisions for providing health care coverage through employer-provided health care benefits. If both support payments and health care coverage is ordered, the judge shall determine which provision will take priority if there is insufficient disposable income available to fully cover both provisions. The procedure for entry of such orders is as follows:

- Unless the court orders otherwise, upon entry of an order of support, the judge or clerk enters a district court form DC-645 INCOME DEDUCTION ORDER FOR SUPPORT to each current employer and, when made known to the clerk, to each future employer. If the court did not enter a district court form DC-645 INCOME DEDUCTION ORDER FOR SUPPORT at the time of entry of the order of support, the Respondent may voluntarily request that support be withheld from his or her income. Voluntary requests will be received by the court either by the filing of district court form DC-615, [RESPONDENT'S REQUEST FOR INCOME DEDUCTION ORDER](#) or a contract or other stipulation that provides for such deductions. While entry into such voluntary agreement waives notice as provided in [Va. Code § 20-79.1 \(B\)](#), the court can enter such an order only if the court approves the agreement and for good cause shown.
- When an employer withholds support from an employee's or independent contractor's income and submits that withheld payment in accordance with an income withholding order the employer can charge up to a maximum of \$5.00.
- A copy shall be either served on the employer or sent by electronic means. The employer should also be sent district court form DC-646, [COMPLIANCE PROVISIONS - INCOME DEDUCTION ORDER FOR SUPPORT](#). Along with the employer's copy, the employee/obligor's copy of the district court form DC-645, INCOME DEDUCTION ORDER FOR SUPPORT is sent to the employer to be delivered to the employee. If the employer is a corporation, service must be made on an officer, an employee designated by the corporation other than an officer, or if there is no designated employee or if the designated employee cannot be found, upon a managing employee. If the creditor files a certificate that she used due diligence and an officer, designated employee or managing employee cannot be found or the designated or managing employee is the debtor, it may be served on the registered agent or upon the clerk of the [State Corporation Commission](#). If the corporation intends to designate an employee for receipt of service, the corporation shall file the designation with the [State Corporation Commission](#). [Va. Code § 8.01-513](#)
- Employer's response of inability to comply. If the employer files or mails within five business days from service of process, a reply that the district court DC-645 INCOME DEDUCTION ORDER FOR SUPPORT does not meet certain statutory requirements, the order is void from transmission of the reply if not materially false. [Virginia Code § 20-79.3 \(B\)](#) requires that the order:
 - must contain the obligor's correct social security number.
 - must contain a single monetary amount to be deducted for each pay period.
 - must not contain information in conflict with the employer's current payroll records.

- must not order payment other than to [the Department of Social Services](#) (of which DCSE is a part) or its contractor.
- must not require that an employer of 10,000 or more persons make payment other than by combined single payment in the case of withholdings from multiple employees.
- must contain the maximum percentage which may be withheld pursuant to [Va. Code § 34-29](#).

The DC-645 INCOME DEDUCTION ORDER FOR SUPPORT should include an amount for each of the possible pay periods. The interval amounts are calculated based on the monthly amount of support ordered. To calculate the amount for each pay period, the clerk should perform the calculations below:

Per weekly pay period	Multiply monthly amount by 12, then divide by 52
Per bi-weekly pay period (every two weeks)	Multiply monthly amount by 12, then divide by 26
Per semi-monthly pay period (twice a month)	Multiply monthly amount by 12, then divide by 24

- If an employer allegedly fails to comply with an income deduction order, then a district court form DC-360, SHOW CAUSE SUMMONS (CRIMINAL) should be served on the employer alleging the compliance failure.

Note: An employer who withholds money from the pay of his employee for payment of child support and wrongfully or fraudulently fails to make payment is guilty of embezzlement. [Va. Code § 18.2-111.2](#).

- Modification or Termination of Order. Such orders must be modified or terminated when, after notice and a hearing, the court finds that:
 - the whereabouts of the children and their custodian have become unknown, or
 - the support obligation to an obligee ceases, or
 - the arrearages have been paid in full.

The obligor completes district court form DC-630, [MOTION TO AMEND OR REVIEW ORDER](#) and the court schedules a hearing. If the whereabouts of the children and custodian are unknown or the support obligation for all obligees in the case ceases, the order portion of the form can be completed with a copy being served on the employer. If the support obligation is modified, a new district court form DC-645, INCOME DEDUCTION ORDER FOR SUPPORT for each employer must be entered and the underlying order for support must be examined to determine if it must be modified.

Post-Trial Procedures

Appeals

The district court form DC-602, NOTICE OF APPEAL - SUPPORT PROCEEDINGS should be used to note the appeal of a support case.

Appeal bonds are paid when an appeal is filed in a support case only in particular circumstances. No appeal bond shall be required when a party is appealing an order of the juvenile and domestic relations district court except for that portion of any order (1) adjudicating support arrearage or (2) suspending payment of support during the appeal. See Appeals of Support Enforcement Process, below. No appeal is allowed from that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal until the party requesting appeal provides a bond in an amount sufficient, as determined by the judge, to cover a judgment that may be rendered on appeal or if the appeal is not perfected, to cover the amount of the judgment issued in the juvenile and domestic relations district court. The appeal is not perfected if the bond is not paid within thirty days of entry of the final judgment or order. For step-by-step procedures on appeals, see appendix on "Appeals".

Motions to Modify

Motions to modify support may be filed directly with the clerk's office of the juvenile and domestic relations district court on the district court form DC-630, [MOTION TO AMEND OR REVIEW ORDER](#). The terms of a modified order may be made retroactive only to the date of the filing of such motion or, if earlier, to the date an order of the [Department of Social Services](#) directing payment of support was delivered to the sheriff or process server for service on the obligor/respondent.

Any member of the United States Armed Forces Reserves, Virginia National Guard, or Virginia National Guard Reserves, who files a petition or is a party to a petition requesting the adjudication of the support of a child based on a change in circumstances because one of the parents has been called to active duty; shall be entitled to have such a petition expedited on the docket of the court. [Va. Code § 20-108](#). This request may be imbedded in the body of the district court form DC-630, [MOTION TO AMEND OR REVIEW ORDER](#) or on a separate piece of paper.

Change of Payee without a Court Hearing

Normally, to modify any terms of an order, there must be a motion for modification, which must be served, after which the case is docketed, a hearing held, and an order entered. For a change of payee where DCSE seeks to become the payee or seeks to cease being the payee, the following procedure can be used by DCSE to change the payee. [Va. Code § 20-60.5 \(F\)](#).

Upon any obligee's application for public assistance benefits or child support services, the DCSE may change the payee to DCSE so that payment is sent to DCSE at its address as contained in the notice of change as described in [Va. Code § 20-60.5 \(F\)](#). Upon the obligee's request that support services no longer be provided, DCSE may change the payee to the obligee so that payment is sent to the obligee at the address provided by the obligee as contained in the notice of change as described in [Va. Code § 20-60.5 \(F\)](#). Notice of such change shall be served on the obligor by certified mail, return receipt requested, or in accordance with Chapter 8 ([§ 8.01-285](#) et seq.) or Chapter 9 ([§ 8.01-328](#) et seq.) of Title 8.01. The change described in the notice shall be effective as to all payments paid on or after the date that notice was served regardless of when such payments were due. Return of service shall be made to DCSE at the location described in the notice. Upon obtaining service of the notice on the obligor, DCSE shall transmit a copy of such notice together with a copy of the proof of service to the court having jurisdiction for enforcement of the order and to the custodial parent. The notice and proof of service are filed in the appropriate case file.

Proposed Modified Order by the Division of Child Support Enforcement

The [Division of Child Support Enforcement](#) may initiate a review of any support order issued by the court. [Va. Code § 63.2-1921](#). If a material change in circumstances is found, the Department shall present its findings and a proposed modified order to the court that entered the previous order or the court having current jurisdiction. After notice, either party may request a hearing on the modified order. If neither party requests a hearing within thirty days, the court shall either enter the modified order, effective on the date of service on respondent, or else schedule a hearing on its own motion.

Support Payment Enforcement Process

The clerk's office does not handle support payments or initiate action if support arrearages occur. Assistance in such matters is provided through the [Division of Child Support Enforcement](#). The court may punish any failure to comply with a support order

including administrative support orders, by requiring an income deduction order, a recognizance bond, or sentencing the violator to jail for up to twelve months.

The following sub-sections describe the payment enforcement remedies available in a juvenile and domestic relations district court:

Involuntary Income Deduction Orders

If the court did not enter an income deduction order under [Va. Code § 20-79.2](#), the person entitled to support may file a district court form DC-617, [MOTION AND NOTICE OF PROPOSED INCOME DEDUCTION ORDER FOR SUPPORT](#). Upon receipt of this motion, the clerk completes the notice portion of the form and has the notice served on or sent by certified mail or by electronic means, including facsimile transmission, to the obligor's employer who shall deliver the notice to the obligor (person responsible for payment of support).

Before the clerk enters such an order, the clerk must attempt to ascertain the obligor's pay period interval. This act should be done when the district court form DC-617, [MOTION AND NOTICE OF PROPOSED INCOME DEDUCTION ORDER FOR SUPPORT](#) is filed. Only one attempt is statutorily required.

The obligor has the right to file a written "notice of contest" within ten days from the date of issuance of the notice. If the obligor files a "notice of contest," the hearing must be held and a decision rendered within ten days from the filing of the "notice of contest" except for good cause, but no later than forty-five days after receipt of the notice by the obligor under any circumstances. Use district court form DC-512, NOTICE OF HEARING or district court form DC-346, NOTICE OF HEARING DATE to notify the parties of the hearing date and time.

At the hearing, only disputes as to mistakes of fact concerning compliance with the existing order or entry of an income deduction order may be heard. If the judge finds that an order should be entered, then the orders described in the Income Deduction Order section of Trial Procedures, above, shall be entered.

If the obligor does not file a written notice of contest within 10 days, no hearing is held. The court issues the DC-645, INCOME DEDUCTION ORDER FOR SUPPORT, serves the employer and files the case papers.

Military Person as Delinquent Defendant

If the delinquent defendant is an active duty military person and is delinquent in support payments in a total amount equal to two months-worth of payments, then the Statutory Required Allotment (SRA) is available as a support collection device under 32 C.F.R. Part 54. The original support obligation can arise from an order providing for child support or child and spousal support issued by a court of competent jurisdiction.

To obtain an allotment, a court or the [Division of Child Support Enforcement](#) must notify the military finance center concerned of the two-month delinquency.

This signed notice should include the service member's full name, social security number, and military service (e.g. Army, Air Force). This notice must also include the following supplemental information:

- A written statement of delinquent support payments that equal or exceed the amount of support payable for two months;
- A certified copy of the underlying court support order;
- If provided for in a court order, the amount of arrearages and the amount that is to be applied each month toward liquidation of the arrearages;
- If appropriate, a statement that the delinquent support payments are more than twelve weeks in arrears;
- The full name and address of the allottee;
- Any limitation on the duration of the support allotment; and
- A certification that the serving official is authorized to act under SRA.
- The notice shall be served by certified or registered mail, return receipt requested, or by personal service, on the appropriate military finance center.
- The finance center will notify the individual service member within five days.

Once served, a service member is entitled to consultation with a judge advocate or legal officer to discuss the member's legal obligations and the consequences of the failure to make support payments. The service member's commanding officer shall notify the finance center when the individual has received legal assistance. The finance center will initiate the allotment by the first end-of-month payday after it receives confirmation that the service member has had legal consultation, or after thirty days have elapsed since the notice was given to the service member, whichever

comes first. Once initiated, the allotment is automatic and continuous. Only the initiating court or agency can modify or terminate the allotment.

A military finance center will begin an allotment for the amount of monthly support presently owed and for future payments as required by a court or agency order. To collect support arrearages, however, a court judgment order must accompany the delinquency notice.

If several notices are served against a service member's pay, payments will be satisfied on a first-come, first-served basis. The maximum amount of an allotment, together with any other moneys withheld or garnished for family support, may not exceed:

- Fifty percent of the member's disposable income for any month in which the member asserts by affidavit or other acceptable evidence that he or she is supporting another spouse, dependent child, or both.
- Sixty percent of the member's disposable income for any month in which the member fails to assert by affidavit or other acceptable evidence that he or she is supporting another spouse, dependent child, or both.
- Regardless of the limitations in (1.) and (2.), an additional five percent of the member's disposable income shall be withheld when it is stated in the notice that the member is in arrears in an amount equivalent to twelve or more weeks' support under a court order for support.

Reducing Arrearages to Judgment

If the court finds that the defendant is in arrears on his/her support payments, then the court may enter judgment for the principal amount of support and interest on the arrearage at the judgment rate of interest, if proven by the requesting party. Reasonable attorneys' fees may also be ordered if the total arrearage is equal to or greater than three months of support and maintenance. [Va. Code § 20-78.2](#). The nonpayment of attorney's fees is enforceable by the issuance of a show cause.

A petitioner or plaintiff may ask to have arrearages reduced to a judgment which may be enforced through civil remedies provisions in general district court or circuit court. [Va. Code § 16.1-278.18](#). The steps are:

- Petitioner or plaintiff completes the motion portion of district court form DC-625, [MOTION AND NOTICE AND JUDGMENT FOR ARREARAGES](#) and files it in the clerk's office.
- The clerk's office prepares the notice portion of district court form DC-625, [MOTION AND NOTICE AND JUDGMENT FOR ARREARAGES](#), and issues these papers for service of process.
- Case type **VS**.
- The judge hears the matter.
- If an arrearage is found to exist, judgment is entered for the arrearage and the clerk prepares a district court form DC-465, ABSTRACT OF JUDGMENT to be given to the obligee/petitioner or the Division of Child Support Enforcement.
- Disposition code **J** (judgment on arrearage).
- If the amount of the judgment does not exceed \$15,000, exclusive of interest and any attorney's fees, the obligee/petitioner or the [Division of Child Support Enforcement](#) may deliver an abstract of any such judgment entered to the clerk of the general district court of the same judicial district, and executions upon such judgment shall be issued by the clerk of such general district court. Abstracts may also be similarly delivered to the circuit court clerk for the issuance of execution.

Contempt for Failure to Pay Support

If the respondent fails to pay support as provided for in an order of support, the petitioner may file a district court form DC-635, [MOTION FOR SHOW CAUSE SUMMONS OR CAPIAS](#) in the juvenile and domestic relations district court. The petitioner may request that the summons be issued pursuant to [Va. Code §§ 16.1-278.16](#) or [18.2-456](#).

Upon receipt of the district court form DC-635, [MOTION FOR SHOW CAUSE SUMMONS OR CAPIAS](#) the clerk should consult with the judge as to whether a criminal or civil show cause order should be issued. This determination has a substantial effect on the dispositions available to the judge when the respondent appears in court. If the clerk is instructed to issue a criminal show cause, then the district court form DC-360, SHOW CAUSE SUMMONS (CRIMINAL) should be served on the respondent. If a civil show cause is desired, the district court form DC-481, SHOW CAUSE SUMMONS (CIVIL) should be issued and served on the respondent. These show causes should be entered in the Support Division of JCMS upon issuance.

At the hearing on the show cause, if the court finds the respondent guilty of contempt of court for failure to pay support as ordered, the court may determine the amount of arrearage and order that the respondent:

- if it is a civil contempt proceeding:
 - pay a civil fine
 - be incarcerated until payment is made for a maximum of twelve months

- if it is a criminal contempt proceeding:
 - pay a fine
 - be incarcerated for up to twelve months if the Show Cause Summons was issued pursuant to [Va. Code §§ 16.1-278.16](#) or [20-115](#)
 - be assigned to a work release program pursuant to [Va. Code § 53.1-131](#) (any sums earned shall be used for the support and maintenance of the child and/or spouse)
 - be required to perform public service work
 - be incarcerated for up to ten days if the Show Cause Summons was issued pursuant to [Va. Code § 18.2-456](#).

In addition, if a support order is violated, in cases of willful failure to comply, the violator may be committed to a jail, workhouse, city farm, work squad or public service work, for a fixed or indeterminate term not to exceed twelve months, with the sums paid for the work performed being applied to the child and/or spousal support. [Va. Code §§ 16.1-292](#), [20-61](#) and [20-115](#).

If the charge against the accused is a crime for which the penalty may be incarceration, and the accused is not represented by counsel, the court shall determine whether or not the accused desires to waive his right to counsel or request a court-appointed attorney. If counsel is appointed and there is a finding of guilt of a deferred finding with conditions, the court shall assess the court-appointed counsel fee. If jail time is imposed and a local ordinance is in place, the court should assess the jail fee.

Suspension of Occupational and Other Licenses

Upon thirty days' notice to an obligor alleged to be delinquent in child support payments for ninety days or in the amount of \$5,000 or more, or alleged to have failed to comply with a subpoena, summons or warrant relating to paternity or child support, the obligee/petitioner or [Division of](#)

[Child Support Enforcement](#) may petition for the suspension of any occupational license or license to engage in a recreational activity issued by the Commonwealth held by the obligor/respondent. [Va. Code § 63.2-1937](#). The court shall not suspend the license if it finds (i) that the obligor/respondent has made a good faith effort to reach an agreement regarding the arrearage, (ii) an alternate remedy is available or (iii) the license suspension would either result in irreparable harm to the obligor/respondent or his employees, or would not result in collection of the delinquency. The petitioner completes district court form DC-670, PETITION FOR SUSPENSION OF PROFESSIONAL OR OTHER LICENSE. The petition must be signed by a notary or intake officer. The case is entered in the support division as a VS case type. If the court grants the petition the court issues the DC-671, ORDER FOR SUSPENSION OF PROFESSIONAL OR OCCUPATION LICENSE. Upon compliance, DCSE will file the DC-672, CERTIFICATE OF COMPLIANCE FOR REINSTATEMENT FOR PROFESSIONAL OR OTHER LICENSE. If a restricted license is granted to the respondent, the order must be manually submitted to DMV.

Suspension of Driver's License for Failure to Pay Child Support or Failure to Comply with Process Issued by DCSE

The [Department of Social Services, Division of Child Support Enforcement](#) ("DCSE"), may seek to suspend the driver's license for any parent who is either ninety days or \$5,000 delinquent in child support payments or who has failed to comply with process issued by DCSE in a paternity or child support matter. [Va. Code § 46.2-320](#). DCSE initiates this process by sending to the delinquent parent a notice of intent to suspend the driver's license. If the delinquent parent does not respond to this notice of intent, then the license is suspended through an administrative process between DCSE and the [Department of Motor Vehicles](#) (DMV).

The delinquent parent has the right to a hearing in court prior to the suspension by submitting a written request for such a hearing to DCSE within ten days from service of the notice of intent. DCSE will petition the circuit or juvenile and domestic relations district court that entered or is enforcing the support order in question for a hearing by using district court form DC-280, [PETITION AND ORDER TO SUSPEND DRIVER'S LICENSE – FAILURE TO PAY CHILD SUPPORT](#). The court enters this petition in the Support Division. The case type is **VS**. After a showing by DCSE of the support arrearage, or non-cooperation, if the court determines that the failure of the delinquent parent to pay child support is willful, the court shall suspend the driver's license. The order of the court is documented on the DC-280.

At any time after the delinquent parent is served with the notice of intent to suspend his driver's license for failure to pay child support, or failure to

comply, the parent may petition the juvenile and domestic relations district court of his residence for the issuance of a restricted driver's license. This petition is submitted using district court form DC-281, [PETITION FOR RESTRICTED DRIVER'S LICENSE - FAILURE TO PAY CHILD SUPPORT](#). The petition for a restricted license is entered in the Support Division using a case type of **SL**. Valid final dispositions are **D** for dismissed or **GR** for granted. Also, if granted, the court will need to mail the restricted license to DMV.

Upon a demonstration of good cause, the court may provide that the delinquent parent be issued a restricted driver's license for the conditions specified in [Va. Code § 46.2-320](#), including travel to and from child visitation. However, this condition of a restricted driver's license does not override any contrary provisions of a protective order. The order to issue a restricted license is contained in the district court form DC-282, RESTRICTED DRIVER'S LICENSE ORDER - FAILURE TO PAY CHILD SUPPORT. There is no expiration date of the RDL granted by DC-282.

The delinquent parent may have his license restored by paying in full the support arrearage, or else by establishing a payment plan which provides that the amount will be paid in full within ten years and making one payment representing at least five percent of the total delinquency or \$600, whichever is less has been made pursuant to that plan or by complying with the process. In either instance, DCSE will automatically notify DMV that the individual is eligible for restoration of full driving privileges and the individual will have his license restored upon application to DMV.

Appeals of Enforcement Process

The district court form DC-602, NOTICE OF APPEAL - SUPPORT PROCEEDINGS should be used to note an appeal of any finding of arrearage, and civil or criminal contempt.

An appeal of this finding of an arrearage in a civil contempt case means that both the finding of an arrearage and the contempt finding are appealed to the circuit court. Opinion of the Attorney General to the Honorable J. Dean Lewis, Judge. (April 11, 2002).

For step-by-step procedures on appeals, refer to the appendix on "Appeals".

Requests to Establish Paternity in a Support Proceeding

When filing a support petition, petitioners, including DCSE may also request the court establish paternity for the child, either through a paternity test or through execution of an acknowledgment of paternity. When making this request while pleading support, it is not

necessary for the petitioner to file a separate paternity petition. The request to establish paternity may be made in the DC-610, PETITION FOR SUPPORT (CIVIL) along with the DC-641, PARENTAGE SUPPLEMENT TO PETITION or for DCSE, the equivalent forms indicating paternity needs to be established. A DC-623, MOTION FOR GENETIC TESTING may also be filed in a pending matter. When paternity is established, the court will use the DC-644, ORDER DETERMINING PARENTAGE to record the finding in an order, a certified copy of which is sent to the Department of Vital Records. THE DC-644, ORDER DETERMINING PARENTAGE may be indexed in the JCMS civil division in the child's name, using an NC (non-case) case type.

Uniform Interstate Family Support Cases (UIFSA)

Chapter 673 of the 1994 Acts of the General Assembly repealed the Revised Uniform Reciprocal Enforcement of Support Act (RURES), Va. Code §§ 20-88.12 through 20-88.31, and enacted the Uniform Interstate Family Support Act (UIFSA), [Va. Code §§ 20-88.32](#) through [20-88.82](#). The theory motivating UIFSA is that it is simpler and more efficient to have a “one order” system where there is only one order in effect at any one time and one state that has “continuing, exclusive jurisdiction” over the support order. All other actions in all other states will only be proceedings to enforce the order. Federal law required that all states adopt the Uniform Interstate Family Support Act by January 1, 1998. The situations in which the juvenile and domestic relations district court will confront UIFSA are registration of non-Virginia support orders, modification of those orders, and enforcement of those orders.

The state that issued the support order has “continuing, exclusive jurisdiction” as long as one of the parties continues to live in that state. The state may change if the parties enter into a written agreement for jurisdiction to rest in another state or if neither party lives in the state that issued the order. As well, upon issuance of an order by a tribunal of the Commonwealth to modify a child support order, the tribunal of the Commonwealth becomes the tribunal having “continuing, exclusive jurisdiction”. Restated, any state acting as a tribunal of the Commonwealth, which modifies an original order or issues an original order using UIFSA because of the location of the respondent becomes the court having “continuing, exclusive jurisdiction”.

A party obtaining modification of a child support order shall file a certified copy of the order with the issuing tribunal that has “continuing, exclusive jurisdiction” over the earlier order, and also with each tribunal in which the party knows that the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanction in a court where the failure to file becomes an issue. Such failure does not affect the validity of the modified order pursuant to [Va. Code § 20-88.77:2](#).

Requests to Act as Initiating Tribunal for an Order to be heard and entered in Another State

A party or counsel for the party may file a petition pursuant to [Va. Code § 20-88.44](#) with the local court in the jurisdiction in which the petitioner lives requesting the court to act as an initiating tribunal for an original support order. The local court only receives the petition, enters the case, and transfers the case to be heard in the locality within another state in which the respondent lives.

STEP	DESCRIPTION
1	A Uniform Support Petition is filed with the clerk’s office with the required information and forms attached including, but not limited to, Child Support Enforcement Transmittal #1 – Initial Request, General Testimony, and supporting documentation. The clerk should stamp with DATE RECEIVED stamp for the file. See form OMB-085D Uniform Support Petition, OMB-085I Registration Statement, OMB-085A Child Support Enforcement Transmittal #1-Initial Request, and OMB-085E General Testimony. This may also be filed on an attorney-drafted petition. Va. Code § 20-88.44 .
2	The clerk should review the documents to be sure that all required information has been completed.
3	The petition is entered in the Support Division of JCMS using case type VS .
4	The case should be set on an administrative docket with a DS hearing type. The case is immediately finalized with a disposition of TR (transfer) for transfer to another court. No hearing will be conducted by the initiating tribunal’s judge.
5	The Clerk should prepare and mail the case file including the petition and all documents filed with the clerk’s office to the court located in the jurisdiction in which the respondent resides. The petitioner or the counsel for the petitioner should provide the name and address of the court out of state, which has jurisdiction over the respondent.
6	A copy of all case papers should be made and kept in the initiating court’s file. Document the date the original papers were mailed out of state.

Finalizing a Request from Another State’s Initiating Tribunal to Hear and Enter a Support Order in Virginia

A party, or counsel for the party, may file a petition pursuant to [Va. Code § 20-88.44](#) with a court from another state or with the [Division of Child Support Enforcement](#), in which the petitioner lives, requesting the court to act as an initiating tribunal for an original support order. The initiating tribunal (court or DCSE) forwards the petition to the court in the locality in Virginia in which the respondent lives to have the petition heard and an order entered.

STEP	DESCRIPTION
1	<p>A Uniform Support Petition received from an initiating tribunal from another state is filed with the clerk’s office with the required information and forms attached including, but not limited to, Child Support Enforcement. See form OMB-085D Uniform Support Petition, OMB-085I Registration Statement, OMB-085A, Child Support Enforcement Transmittal #1-Initial Request, and OMB-085E General Testimony.</p> <p>Transmittal #1 – Initial Request, General Testimony, and supporting documentation. The clerk should stamp with DATE RECEIVED stamp for the file. This may have also been sent on an attorney-drafted petition with appropriate supporting documentation. Va. Code § 20-88.44</p>
2	<p>The clerk should review the documents to be sure that all required information has been completed. The acknowledgement, located at the bottom of the Child Support Enforcement Transmittal #1 – Initial Request, should be completed and returned to the initiating state.</p> <p>If additional information is needed and requested in the acknowledgement, the initiating state is responsible for collecting the requested information and returning it with a form OMB-085B Child Support Enforcement Transmittal #2 – Subsequent Actions.</p>
3	<p>If all required information is filed with the court proceed to Step 4.</p> <p>If additional information is requested, retain documents, do not enter in JCMS until the requested documentation is returned accompanied by an OMB-085B Child Support Enforcement Transmittal #2 – Subsequent Actions form, The clerk should review the documents to be sure that all required information has been completed. The acknowledgement, located at the bottom of the Child Support Enforcement Transmittal #2 – Subsequent Actions, should be completed and returned to the initiating state.</p>
4	<p>Enter the petition in the Support Division in JCMS with a VS case type and a hearing type of AJ.</p>
5	<p>Notice of the hearing is required for both parties.</p> <p>If DCSE files the Uniform Support petition a DCSE representative must be summonsed for the hearing.</p>
6	<p>After the hearing and entry of an order, the clerk should finalize the case in JCMS based on the judge’s decision.</p>
7	<p>All original case papers should remain in the court file in Virginia. A copy of the final order should be forwarded to the initiating state. Note in the court file the date of mailing.</p>

Registration of Non-Virginia Support Orders

STEP	DESCRIPTION
1	<p>A district court form DC-685, Request for Virginia Registration of Non-Virginia Support Order is filed with the clerk’s office. Va. Code § 20-88.67</p> <p>The petitioner should provide two copies of the court order to be registered. One copy must be certified. The clerk should stamp the date received. Additionally, an income-withholding order may accompany the request for registering. If the registering party asserts that two or more orders are in effect, a notice shall also: 1) Furnish a copy of every support order in addition to the required documents, 2) Specify which order is the alleged controlling order (form OMB-085H Notice of Determination of Controlling Order should accompany orders) if any; and 3) specify the amount of consolidated arrears, if any. The statement of arrears is contained within the DC-685 and requires a notarized signature.</p> <p>NOTE: If DCSE is requesting the registration on behalf of the petitioner from out of state, a form OMB-085I, Registration Statement should be included in the packet of documentation.</p>
2	<p>A petition or motion seeking a remedy may be filed at the same time as the request for registration or may be filed a later date. This petition or motion should be set on an active docket after the date of administrative hearing set for the registration of the order.</p>
3	<p>Upon receipt of request to register non-Virginia support order and necessary documents, the case is entered in the Support Division of JCMS using a case type of VS.</p> <p>Use the information from the request and the attached order to complete required fields.</p>
4	<p>Clerk should set a hearing date on an administrative docket twenty days from the date of mailing of the notice to the parties to confirm the registration.</p> <p>No hearing date on an active docket is required unless the registration is contested. If contested, both parties must appear before a judge for an entry of a Confirmation Order.</p>

STEP	DESCRIPTION
5	<p>Clerk should prepare a district court form DC-686, NOTICE OF REQUEST FOR REGISTRATION including a copy of all documents filed with the clerk’s office to be sent to the non-requesting party by mail. (NOTE: a copy of such notice may be forwarded to the registering party and any support enforcement agency that may be involved to show the expected date of confirmation of the registration request.)</p> <p>The notice provides the following: Appropriate notice of the request for registration, That a registered order is enforceable as of the date of registration, That the non-registering party must request a hearing to contest the validity or enforcement within the twenty days after the date of the mailing, That failure to contest in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages, and precludes any further contesting of the order with respect to any matter that could have been asserted (contested), and the amount of the alleged arrearage.</p>

Registering a Request When Non-Registering Party **Does Not** Contest the Registration

STEP	DESCRIPTION
1	<p>If the non-registering party does not contest the registration of the order within the twenty days as notified or if the contesting party does not establish a defense to the validity or enforcement of the order, the judge may sign the Confirmation Order located on the back of the district court form DC-685, Request for Virginia Registration of Non-Virginia Support Order and register the support order in the Commonwealth of Virginia.</p>
2	<p>Clerk should send a certified copy of the Confirmation Order to both parties, any support enforcement agency that may be involved, and any attorneys that may be noted.</p> <p>Confirmation of a registered order precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.</p> <p>Additionally, upon registration of an income-withholding order for enforcement, the clerk shall notify the obligor’s employer pursuant to the Income Deduction Order for Support laws of the Commonwealth.</p>
3	<p>A party has up to thirty days from the entry of a final order or judgment to file an appeal using a district court form DC-602, Notice of Appeal – Support Proceedings. Va. Code § 16.1-296. See appendix on “Appeals”.</p>

Registering a Request When Non-Registering Party *Does* Contest the Registration

STEP	DESCRIPTION
1	If the non-registering party chooses to contest the registration of the order and does so in writing prior to the twenty-day limitation, the clerk should set the case on an active docket and summons all parties for a hearing before a judge.
2	If the non-registering party does not establish a defense to the validity or enforcement of the order, the judge may sign the Confirmation Order located on the back of the district court form DC-685, Request for Virginia Registration of Non-Virginia Support Order and register the support order in the Commonwealth of Virginia. Confirmation of a register order precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.
3	If the non-registering party does establish a defense to the validity or enforcement of the order, the judge may check the box not registering the non-Virginia support order.
4	Clerk should send a certified copy of the Confirmation Order to both parties, any support enforcement agency that may be involved, and any attorneys that may be noted. Additionally, upon registration of an income-withholding order for enforcement, the clerk shall notify the obligor’s employer pursuant to the Income Deduction Order for Support laws of the Commonwealth.
5	A party has up to thirty days from the entry of a final order or judgment to file an appeal using a district court form DC-602, NOTICE OF APPEAL – SUPPORT PROCEEDINGS. Va. Code § 16.1-296 . See appendix on “Appeals”.

Additional Motions Filed With a Request for Registration of a Non-Virginia Support Order

If there was an additional motion seeking a remedy filed with the original request for registration, the clerk shall enter the motion in JCMS as a typical motion to amend support and notify all parties of the same.

The hearing may be set after the Confirmation Order of the request for registration has been signed by a judge or on the same day as a contested registration hearing is held.

Forms

- DC-602 NOTICE OF APPEAL – SUPPORT PROCEEDINGS
- DC-630 [MOTION TO AMEND OR REVIEW ORDER](#)
- DC-635 [MOTION FOR SHOW CAUSE OR CAPIAS](#)

DC-685	REQUEST FOR VIRGINIA REGISTRATION OF NON-VIRGINIA SUPPORT ORDER
DC-686	NOTICE OF REQUEST FOR REGISTRATION
OMB-085A	CHILD SUPPORT ENFORCEMENT TRANSMITTAL #1 - INITIAL REQUEST
OMB-085B	CHILD SUPPORT ENFORCEMENT TRANSMITTAL #2 - SUBSEQUENT ACTIONS
OMB-085C	CHILD SUPPORT ENFORCEMENT TRANSMITTAL #3 - REQUEST FOR ASSISTANCE/DISCOVERY
OMB-085D	UNIFORM SUPPORT PETITION
OMB-085E	GENERAL TESTIMONY
OMB-085F	AFFIDAVIT IN SUPPORT OF ESTABLISHING PATERNITY
OMB-085G	LOCATE DATA SHEET
OMB-085H	NOTICE OF DETERMINATION OF CONTROLLING ORDER
OMB-085I	REGISTRATION STATEMENT

Modification of Non-Virginia Support Orders

A party seeking to modify a non-Virginia support order must file a district court form DC-630, [MOTION TO AMEND OR REVIEW ORDER](#) with a copy of the non-Virginia order. The clerk will sign and date the notice provision of the Motion and transmit it to the appropriate jurisdiction for notification of all parties, including respondent, and DCSE.

Although a court of the Commonwealth may have personal jurisdiction over a nonresident under [Va. Code § 20-88.35](#), the court may not modify a child support order issued by a tribunal of another state unless the requirements for modification under [Va. Code §§ 20-88.76](#) or [20-88.77:3](#) have been met. A registered order may be modified only if, after notice and a hearing, the court finds that either (i) neither the child, nor the obligee nor the obligor reside in the state which issued the order, the petitioner seeking modification is a nonresident of Virginia, and the respondent is subject to the personal jurisdiction of the court; *or* (ii) a party who is an individual (or the child) reside in Virginia and is subject to the personal jurisdiction of the court and all the individual parties who are individuals have agreed in a record that a Virginia court may modify the order and assume “continuing, exclusive jurisdiction.” [Va. Code § 20-88.76](#). No Virginia court may modify any aspect of a support order that cannot be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the controlling order establishes the aspects of the support order that cannot be modified. The modification of a non-Virginia support order is subject to the same requirements and procedures as modification of a support order issued in Virginia. If the order is modified, the Virginia court becomes the court of “continuing, exclusive jurisdiction.”

A party obtaining modification of a child support order shall file a certified copy of the order with the issuing tribunal that had “continuing, exclusive jurisdiction” over the earlier order, and also with each tribunal in which the party knows that the earlier order had been registered. A party who obtains the order and fails to file a certified copy is subject

to appropriate sanctions in a court where the failure to file becomes an issue. Such failure does not affect the validity of the modified order. [Va. Code § 20-88.77:2](#).

References

[Va. Code §§ 20-88.12](#) through 20-88.31

[Va. Code § 20-88.32](#) through § 20-88.82

[Va. Code § 16.1-296](#)

URESA; Repealed

UIFSA

Jurisdiction of Appeals

Criminal Non-Support

Proceedings under this section may be initiated by petition, district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) verified by oath or affirmation, filed by the spouse or child or by any probation officer or by any state or local law-enforcement officer or by the [Department of Social Services](#) upon information received or by any other person having knowledge of the facts, and the petition shall set forth the facts and circumstances of the case. If a district court form DC-614, AFFIDAVIT - DESERTION AND NON-SUPPORT is attached, it is recommended that the judge review the petition and affidavit, and direct the court whether to issue a, district court form DC-314, WARRANT OF ARREST - MISDEMEANOR (STATE) or a, district court form DC-319, SUMMONS. There is no requirement that there be an existing Order of Support prior to the filing of this petition. This petition may also apply to the desertion and non-support of adult parents.

In addition to the desertion/non-support portion of the petition, paternity, support (both spousal and child) and reimbursement of arrearages can also be initiated with the filing of this petition.

Proceedings under this section may also be initiated at the magistrate level, and the court may receive only the district court form DC-614, AFFIDAVIT - DESERTION AND NON-SUPPORT attached to a district court form DC-314, WARRANT OF ARREST – MISDEMEANOR (STATE). The DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) may be filed at a later date, if at all.

Venue is established by location of spouse or child at the time of desertion or where they remain in destitute conditions with the knowledge of the accused, or where the accused resides; or may be transferred to the jurisdiction in which the spouse, child or accused resides.

Although these proceedings may be brought into Court by a civil petition, adjudication of guilt is a misdemeanor, and shall be reported by CCRE to VSP.

There may already be a support order established, either by a prior petition, a divorce decree, a Division of Child Support Enforcement case filing or a non-Virginia court order. (If there is a non-Virginia support order, it is not legally required, but best practice to have petitioner file to have such order registered).

If there is a prior order of support, the clerk should attach a copy with the petition; if it is a Division of Child Support Enforcement case, the clerk should send a copy of the petition (and/or affidavit) to DCSE.

Procedures for Warrant from Magistrate

STEP	DESCRIPTION
1	A district court form DC-314, WARRANT OF ARREST – MISDEMEANOR (STATE) is received from magistrate. The district court form DC-614, AFFIDAVIT - DESERTION AND NON-SUPPORT should be attached. (This affidavit is filed with the case and does not get indexed.) Paperwork should be date stamped.
2	Enter in the Criminal Division. Case type CM .
3	Conduct arraignment/advisement of counsel.
4	Case will proceed as a normal criminal matter; with final disposition recorded on back of district court form DC-314, WARRANT OF ARREST – MISDEMEANOR (STATE). See chapter on “Adult Criminal Procedures” for more specific details on criminal cases.
5	The court later proceeds on the case with district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL), which supplants the district court form DC-314, WARRANT OF ARREST – MISDEMEANOR (STATE). This petition is issued at the same time as or shortly after the issuance of the warrant. Enter in the Support Division. Case type CS . (The order issued in these cases is the DC-629, DESERTION/NON-SUPPORT ORDER OF SUPPORT-CRIMINAL)
6	Appeal may be noted within ten calendar days of conviction. See appendix on “Appeals” for step-by-step procedures.

Procedures for Petition Filed in the Clerk’s Office, Without Affidavit

STEP	DESCRIPTION
1	The district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) is prepared by petitioner; acknowledged by intake officer or notary public. Clerk’s office receives the district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL). The petition should be stamped with the date and time received. Since no affidavit is received, no warrant for arrest may be issued.
2	Enter case in the Support Division of JCMS.

STEP	DESCRIPTION
3	<p>Case type CS (Criminal Support)</p> <p>Even though case type is generally civil in nature and entered in the support division, this is a criminal misdemeanor matter with arraignment requirements and criminal punishment is applicable upon conviction.</p>
4	<p>Enter district court form DC-319, SUMMONS as a new case in the adult division for the arraignment date. The case type is CM.</p> <p>A district court form DC-319, SUMMONS will not automatically populate on forms. You will need to manually enter information for summons to generate.</p> <ul style="list-style-type: none"> • On or about date is from petition. • Code Section is Va. Code § 20-61. • Offense description: use language similar to wording of petition. • Petitioner is complainant. • Short offense description: Use VCC description. • OTN: is your FIPS code then case number no spaces. i.e., 900JA06000123 • VCC: as listed above.
5	<p>Defendant is arraigned.</p> <p>Next hearing date is AJ and should be docketed with the underlying DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL).</p> <p>Send out district court form DC-326, Subpoena for Witnesses to petitioner, and any other witnesses as requested.</p>
6	<p>Upon completion of trial, finalize the DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) in JCMS. If support is ordered, issue the DC-629, ORDER OF SUPPORT-CRIMINAL.</p> <p style="padding-left: 40px;">Final Disposition: SO or D</p> <p style="padding-left: 40px;">Criminal field: Y</p>
7	<p>Upon completion of trial, finalize the DC-319, SUMMONS in JCMS.</p> <p style="padding-left: 40px;">Final Disposition: G, NG, or D</p> <p>If guilty, local law enforcement must fingerprint. Disposition information will transmit electronically to CCRE.</p>
8	<p>Route to the H/D Finance tab in JCMS and assess appropriate court costs.</p>
9	<p>Appeal may be noted within ten calendar days of conviction. See appendix on “Appeals” for step-by-step procedures.</p>
10	<p>The district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) is prepared by petitioner; acknowledged by intake officer or notary public. Clerk’s office receives the district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL). The petition should be stamped with the date and time received. Since no affidavit is received, no warrant for arrest may be issued.</p>

Clerk’s Procedures for Petition Filed in the Clerk’s Office with DC-614, Affidavit-Desertion and Non-Support

STEP	DESCRIPTION
1	<p>The district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) along with the district court form DC-614, AFFIDAVIT - DESERTION AND NON-SUPPORT is prepared by petitioner; acknowledged by intake officer or notary public.</p> <p>Clerk’s office receives the district court form DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) along with the district court form DC-614, AFFIDAVIT - DESERTION AND NON-SUPPORT. (The affidavit is filed with the case and does not get indexed.)</p> <p>The petition and affidavit should be stamped with the date and time received.</p>
2	<p>Enter petition in the Support Division of JCMS.</p>
3	<p>Case type: CS - Criminal Support</p> <p>Even though case type is generally civil in nature and entered in the support division, this is a criminal misdemeanor matter with arraignment requirements and criminal punishment is applicable upon conviction.</p>
4	<p>The judge should review the Petition and Affidavit to determine if a DC-314, WARRANT OF ARREST – MISDEMEANOR (STATE) is justified or if the court should proceed by issuance of a DC-319 Summons.</p> <p>If the court issues the DC-314, WARRANT OF ARREST – MISDEMEANOR (STATE), refer to item A of the Criminal Non-Support section.</p> <p>If the court issues the DC-319, SUMMONS, refer to the Criminal Non-Support section.</p>
5	<p>Issue a DC-326, Subpoena for Witnesses to the petitioner in the criminal case and a district court form DC-510, SUMMONS for the petitioner and respondent on the petition.</p>
6	<p>Upon completion of trial, finalize the DC-612, DESERTION/NON-SUPPORT PETITION (CRIMINAL) in JCMS. If support is ordered, issue the DC-629, ORDER OF SUPPORT-CRIMINAL.</p> <p>Final Disposition: SO or D</p> <p>Criminal field: Y</p>

STEP	DESCRIPTION
7	Upon completion of trial, finalize the DC-319, SUMMONS or DC-314, WARRANT OF ARREST - CRIMINAL in JCMS. Final Disposition: G, NG, or D If guilty, local law enforcement must fingerprint. Disposition information will transmit electronically to CCRE.
8	Route to the H/D Finance tab in JCMS and assess appropriate court costs.
9	Appeal may be noted within ten calendar days of conviction. See appendix on "Appeals" for step-by-step procedures.

Forms

- DC-314 WARRANT OF ARREST – MISDEMEANOR (STATE)
- DC-319 SUMMONS
- DC-326 [SUBPOENA FOR WITNESSES](#)
- DC-356 DISPOSITION NOTICE
- DC-510 SUMMONS
- DC-612 DESERTION/NON-SUPPORT PETITION (CRIMINAL)
- DC-614 AFFIDAVIT - DESERTION AND NON-SUPPORT
- DC-629 ORDER OF SUPPORT (CRIMINAL)

References

- [Va. Code §§ 20-61](#) through [20-88.02:1](#) Desertion and Nonsupport
- Title 20 Domestic Relations

Appeal Bonds

An appeal bond is required upon the appeal of any order that adjudicates or establishes an arrearage or suspends payment of support during the appeal. An appearance bond and/or accrual bond may be required upon the appeal of a conviction for failure to pay support or of a finding of criminal contempt involving failure to pay support. Appeal bonds are paid when an appeal is filed in a criminal non-support case or on a support case only in particular circumstances.

Arrearage Bond-When Mandatory

Total arrearage amount owed by respondent. The actual bond amount will be determined by the judge and vary by local practice. An arrearage bond is a mandatory bond on the appeal of any order that establishes an arrearage or suspends payment of support during the pendency of the appeal. If ordered, the DC-460, CIVIL APPEAL BOND should be issued.

On criminal appeal cases, the appeal is perfected upon the filing of the notice of appeal; it is not tied to the posting of bond. Criminal appeals are forwarded to circuit court after 10 days.

On appeal of civil contempt cases, this amount has to be paid before the appeal can be transmitted to, or heard, in the Circuit Court. In civil cases, the respondent has thirty days from the date of judgment in the JDR Court to post the bond. Once the appeal is noted, the respondent shall be released from jail unless the judge orders the respondent held in jail until the bond is posted. Civil appeals are forwarded to circuit court after perfected.

Accrual Bond-Discretionary

The amount of support that will be owed from the date of the hearing in the JDR court until the appeal is heard in circuit court. The actual bond amount will be determined by the Judge and will vary by local practice. An accrual bond is set at the judge's discretion on the appeal of a conviction for failure to pay support or on the appeal of a finding of civil or criminal contempt involving failure to pay support. The respondent has thirty days from the date of judgment in JDR Court to post the bond. Once the appeal is noted the respondent shall be released from jail unless the judge orders the respondent held in jail until the bond is posted. If ordered, the DC-460, CIVIL APPEAL BOND should be issued.

Appearance Bond-Discretionary

An amount ordered with or without surety by the JDR court to ensure the appellant's appearance in the circuit court. An appearance bond is set at the judge's discretion on the appeal of a conviction for failure to pay support or on the appeal of a finding of civil or criminal contempt involving failure to pay support. If the judge sets a secure appearance bond the respondent must remain in jail until the appearance bond is posted.

Withdrawal of Appeals

Civil Appeals-Pursuant to [Va. Code § 16.1-106.1](#) civil appeals may be withdrawn in the district court if the appeal has not been perfected. The appellant is required to file a written notice of intent to withdraw with the court and provide copies of the notice to all parties and counsel.

Criminal Appeals-The appeal must be withdrawn within ten days. After ten days the appeal must be withdrawn in circuit court.

Forms

DC-330 RECOGNIZANCE

DC-356	DISPOSITION NOTICE
DC-460	CIVIL APPEAL BOND
DC-570	ORDER
DC-602	NOTICE OF APPEAL - SUPPORT PROCEEDINGS

Note: For step-by-step procedures for appeal bonds refer to the appendix on “Appeals”.

Support-Remanded from Circuit Court Divorce Order

Pursuant to [§ 20-79 \(c\)](#) In any suit for divorce or suit for maintenance and support, the court may after a hearing, *pendente lite*, or in any decree of divorce a *mensa et thoro*, decree of divorce a *vinculo matrimonii*, final decree for maintenance and support, or subsequent decree in such suit, transfer to the juvenile and domestic relations district court the enforcement of its orders pertaining to support and maintenance for the spouse, maintenance, support, care and custody of the child or children. After the entry of a decree of divorce a *vinculo matrimonii* the court may transfer to the juvenile and domestic relations district court any other matters pertaining to support and maintenance for the spouse, maintenance, support, care and custody of the child or children on motion by either party, and may so transfer such matters before the entry of such decree on motion joined in by both parties. In the transfer of any matters referred to herein, the court may, upon the motion of any party, or on its own motion, and for good cause shown, transfer any matters covered by said decree or decrees to any juvenile and domestic relations district court within the Commonwealth that constitutes a more appropriate forum. An appeal of an order by such juvenile and domestic relations district court which is to enforce or modify the decree in the divorce suit shall be as provided in [§ 16.1-296](#).

Indexing the order in the juvenile and domestic relations district court will depend on the issues addressed in the order. If custody or visitation is ordered, index the remand order from circuit court as a new juvenile case per child for (1) custody and (2) visitation. The court may either utilize a “dummy” number (95000 numbering sequence), use the next juvenile case number if one has been established already, or use a new juvenile base case number. The case types are **RC** (Remand Custody), and **RV** (Remand Visitation), and are entered in the juvenile civil division. If support is ordered and remanded, the remand order is indexed in the adult support division using case type **RS** (Remand Support). The final disposition is **OT**. If support is not determined but all further matters are remanded a new petition must be filed with CSU when a party requests court hearing to determine support. Index the order if custody and visitation are determined and the order remands further proceedings. If all matters are remanded but custody and visitation have not been determined, a new petition must be filed with CSU when a party requests court hearing to determine custody and visitation.